IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1505 OF 2004

C. DORAIRAJ AND OTHERS ..PETITIONERS.

V/s.

STATE OF MAHARASHTRA & Anr. ..Respondents.

Mr.T.J. Pandian i/by Pandian & Associates for petitioners.

Mr. B.H. Mehta, APP for Respondent -State.

CORAM : A.S. AGUIAR, J.

DATED : 01.09.2004

PC:-

. Heard the learned Advocate for the petitioners and learned APP for the State.

. By this petition, the petitioner prays for quashing of the order dated 19.01.2004 passed by the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai issuing process in Case No.471/S/96 as well as order dated 05.04.2004 passed by the learned Addl. Sessions Judge, Gr. Bombay in Cr.

R.Application No. 326/2004, confirming the order of the learned Metropolitan Magistrate, refusing to recall process. Both the courts below are of the view that the matter is an old one and that the petitioner has moved the court belatedly for recall of process. The learned M.M., 28th Court, was also of the view that the matter requires evidence. The submission of the petitioner is that there are no averments whatsover in the complaint about the role of the accused in the management and control of the company. The complaint is silent on this point.

. Admittedly, the complaint was filed in 1996 and the process was issued in 1997 and the same served upon the petitioner somewhere in 1998-99, according to the learned Advocate for the petitioner. However, the application is filed before the learned J.M.F.C. in October, 2002 and thereafter the said order was passed on 19.01.2004. It is pertinent to note that the petitioners have not stated the date on which they were served the process. Clearly the application is belated. Even on merits disposal of the matter would require recording of evidence. In view thereof, the petition rejected and dismissed accordingly.

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